

No. 4499-4Lab-72/17428.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Lahore Pindi Transport Co. (P.) Ltd., Rohtak.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 116 of 1970

between

THE WORKMEN AND THE MANAGEMENT OF M/S LAHORE PINDI TRANSPORT CO.
(P) LTD., ROHTAK

Present :

Shri S.N. Vats, for the workmen.
Shri Chanchal Singh, for the management.

AWARD

The material facts leading to this reference under section 10(1)(d) of the Industrial Disputes Act, 1947, may briefly be set out as under :—

Sarvshri Bansi Lal, Arjan Singh, Prabhu Dayal, Krishan Lal, Bhagwan Dass and Manohar Lal were working as Drivers under the management of M/s Lahore Pindi Transport Co. (P) Ltd., Rohtak. The management brought them under retrenchment by order dated 30th April, 1970 allegedly on account of the closure of the business as a result of the nationalisation of the Road Transport by the State of Haryana. Feeling aggrieved, they raised a demand for their reinstatement with back wages contending that their services had been discharged illegally and without any justification. The management did not accede to their above request and on receipt of the failure report from the Conciliation Officer, the Governor of Haryana, has referred the dispute for adjudication to this Tribunal, vide order No. ID/RK/167-70/23938, dated 6th August, 1970. The term of reference being as given under :—

Whether the management should be required to re-instate/employ following workmen ? If so, with what details ?

1. Shri Bansi Lal Driver.
2. Shri Krishan Lal Driver.
3. Shri Arjan Singh Driver.
4. Shri Bhagwan Dass Driver.
5. Shri Prabhu Dayal Driver.
6. Shri Manohar Lal Driver.

On receipt of the reference usual notices were given to the parties requiring them to put in their respective written statements. In their statement of claim separately filed the concerned workmen have alleged that they had been retrenched in contravention of the requirements of the law as laid down under sub-clause (a) (b) of section 25F of the Act and that being so they are entitled to reinstatement with full back wages.

The management has raised a preliminary objection besides contesting the claim of the workmen on merits. It has been pleaded that inasmuch as the retrenchment of the workmen has been brought about as a result of the bona fide closure of the business, the same can not be the subject-matter of a valid reference as contemplated under section 10 of the Industrial Disputes Act, 1947 and as such the workmen are not entitled to any relief in the present proceedings.

I have heard the parties with regard to the above preliminary objection of the management which has been brought under Issue No. 3 which reads as follows :—

“Whether it is a case of closure of the business as alleged by the management ? If so, with what details ?”

In support of the above issue, the management has examined three witnesses including Shri Hargopal Singh one of the Directors M.W. 1, Shri Subhash Chander, Accountant M.W. 2 and Shri Pankaj Nanda, Managing Director M.W. 3, besides relying upon a number of documents as per details given below :—

1. Copy of resolution item Nos. 3 and 5 of the Board Meeting of Directors held on the 30th day of June, 1970 .. Exhibit M.W. 1/1
2. Retrenchment notice, dated 2nd April, 1970 to Shri Bhagwan Dass Driver Exhibit M.W. 2/1

3. Form-F Notice dated 15th April, 1970 to the Secretary to Government, Haryana, Labour Department, Chandigarh .. Exhibit M.W. 2/2
4. Statement of Reasons, dated 2nd April, 1970 .. Exhibit M.W. 2/3
5. Acknowledgement receipts .. Exhibit M.W. 2/4 to M.W. 2/6
6. Application for service, dated 14th December, 1966 after accident .. Exhibit M.W. 2/7
7. Appointment letter, dated 14th December, 1966 .. Exhibit M.W. 2/8
8. Letter, dated 14th December, 1966 regarding acceptance of the terms and conditions .. Exhibit M.W. 2/9
9. Application, dated 12th October, 1967 regarding further appointment .. Exhibit M.W. 2/10
10. Notice, dated 30th April, 1970 regarding discharged from service with effect from 1st May, 1970 .. Exhibit M.W. 2/11
11. Letter, dated 13th July, 1970 regarding closed down passenger transport service at Rohtak .. Exhibit M.W. 2/12
12. Reply to the letter of 13th July, 1970 on 25th July, 1970 .. Exhibit M.W. 2/13
13. Letters, dated 30th April, 1970 to Sarvshri Bansilal Driver, Arjan Singh Driver, Krishan Lal Driver, Prabhu Dayal Driver and Manohar Lal Conductor regarding notice pay and compensation .. Exhibit M.W. 2/14 to Exhibit M.W. 2/18
14. Letters, dated 13th July, 1970 to Sarvshri Krishan Lal Driver, Prabhu Dayal Driver, Bansilal Driver, Arjan Singh Driver regarding offer of Delhi Transport Undertaking .. Exhibit M.W. 2/19 to M.W. 2/22
15. Letter, dated 13th July, 1970 to all drivers for information on the Notice Board .. Exhibit M.W. 2/23
16. Reply of letter, dated 13th July, 1970 from Sarvshri Bansilal, Krishan Lal, Arjan Singh on 25th July, 1970 .. Exhibit M.W. 2/24 to Exhibit M.W. 2/26
17. Letter, dated 5th May, 1970 to the Secretary to Government, Haryana, Labour Department, Chandigarh regarding information of five retrenched workmen out of 23 .. Exhibit M.W. 2/27
18. Acknowledgement receipts .. Exhibit M.W. 2/28 to Exhibit M.W. 2/30
19. Letter, dated 24th March, 1970 regarding list of seniority of staff .. Exhibit M.W. 2/31
20. Letter, dated 11th August, 1970 from Delhi Transport Undertaking to M/s Lahore Pindi Transport (P) Ltd., Room No. 4, I.S.B.T. Kashmiri Gate, Delhi .. Exhibit M.W. 2/32
21. Letter, dated 5th October, 1970 from Delhi Transport Undertakings to Lahore Pindi Transport Co. (P) Ltd., Room No. 4, I.S.B. Terminal Kashmiri Gate, Delhi .. Exhibit M.W. 2/33
22. Statement of work under the arrangement with D.T.U. .. Exhibit M.W. 3/2
23. Agreement made with D.T.U. .. Exhibit M.W. 3/3
24. Letters addressed to the workers concerned .. Exhibit M.W. 3/3 to Exhibit M.W. 3/7
25. Letters, dated 29th April, 1970 regarding withdrawal of Stage carriage Permits .. Exhibit M.W. 3/1

Shri Krishan Lal one of the concerned workman has settled his dispute with the management and given up his claim for reinstatement and back wages. Out of the remaining five workmen only two, namely, Sarvshri Bansilal and Arjan Singh have made their own statements without examining any other witness. They have not brought on record the original letters issued by the management regarding termination of their services. They have, therefore, relied upon some letters addressed to the management under registered covers acknowledgement due marked Exhibit W-1 to W-11.

Arguments have been addressed on both sides and I have given a considered thought to the facts on record.

The contention raised on behalf of the management is two-fold, firstly, that in a case like this the Tribunal has to examine as a preliminary issue as to whether there has in fact been a closure of the business by the establishment concerned and, secondly, that if the answer to the above query is in the affirmative, whatever, by the reason for the closure of the business, there would be no industrial dispute to invoke the jurisdiction of the Tribunal in the matter. The contention finds full support in a number of authorities cited by the learned representative of the management reported as AIR-1968 Supreme Court page 1002, 1967-15 F.L.R. page 435 (Supreme Court), 1968-17 FLR page 311 (Supreme Court), 1970-20 FLR page 115 (Supreme Court), AIR-1963-Supreme Court page 569.

The learned representative of the workmen has not been able to repel the above contention and show anything contrary to the aforesaid proposition of law laid down in the various authorities referred to above.

The question, therefore, which is of vital importance and arises for determination in the present case is as to whether the management has really closed the business as alleged or the action taken is only by way of a lock out in the garb of closure to harm the interests of the workmen. A close scrutiny of the evidence on record, oral as well as documentary, leads to the irresistible conclusion that the management has in fact closed its business consequent upon the withdrawal of the route permits issued by the State Government under the scheme of the nationalisation of the Road Transport. The facts and figures brought on the record by the management, as would be clear from the perusal of the various documents referred to above speak for themselves. The management was engaged only in the business of passenger transport from Rohtak to Delhi and back. Since the route permits have been withdrawn by the State Government that business has come to an end. There is no indication that the management had started any parallel business for which the services of the concerned workmen might still be required. The evidence produced by the management shows that the impugned action against the workman had been taken in a legal manner. On receipt of the notice of the nationalisation of the Road Transport by the State Government and the cancellation of the route permits a meeting of the Board of Directors had been held and a resolution had been passed to close the business of which necessary intimation was given in writing to the workmen as well as to the authorities concerned. In the absence of any business the management could not be expected to keep the workmen in service and, as proved in the case, the services of only one clerk Shri Subash Chander Maini had been retained to wind up the business. The workmen have not been able to refute the above stand taken by the management which stands fully established from oral as well as documentary evidence. They have not even challenged the factum of the validity of the closure of the business as such.

For the reasons aforesaid, the preliminary issue is decided in favour of the management and it is held that it is a case of closure of the business as alleged by the management and that being so there is no industrial dispute between the parties to call for adjudication by this Tribunal. The matter could be dealt with only if the workmen could show that the respondent transport company was still functioning and it has not closed its business as alleged. The closure of the business as such having been established that is the end of the matter. The claim of the workmen for reinstatement is not tenable.

In view of my above finding, no further proceedings are called for in the case and the reference has to stand rejected for want of existence of any industrial dispute between the parties within the meaning of the law. The award is made accordingly. There will, however, be no order as to costs.

Dated, the 12th April, 1972.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 461, dated 19th April, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 12th April, 1972.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 4494-Lab-72/17431.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, Haryana in respect of the dispute between the workmen and the management of M/s Rohtak Gohana Bus Service (P) Ltd., Rohtak.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 36 of 1971

Between

SHRI WALAYA RAM WORKMAN AND THE MANAGEMENT OF M/S ROHTAK GOHANA
BUS SERVICE (P) LTD., ROHTAK

Present.—

Shri S.N. Vats, for the workman.

Nemo, for the management.

AWARD

The management of M/s Rohtak Gohana Bus Service (P) Ltd., Rohtak, retrenched from service 26 workmen, namely, Sarvshri Gopal Dass, Roshan Lal, Sardar Singh, Ramji Das, Dharam Vir, Vishwa Nath, Sant Lal, Malik Chand, Krishan Lal, Tara Chand, Lachman Das, Paras Nath, Ajaib Singh, Raghu Nath, Mulkh Raj, Chaman Lal, Jinda Ram, Nehal Chand, Harbhajan Singh, Tirath Ram, Buta Ram, Shiv Dutt, Amrik Singh, Lakhi Ram, Kishori Lal and Walaya Ram, with effect from 31st October, 1970. Feeling aggrieved, they raised a demand for their reinstatement with full back wages contending that the retrenchment had been brought about without any justification and in contravention of the requirements of the law as laid down in clause (a)(b) of section 25-F of the Industrial Disputes Act. There being no satisfactory response from the management, the matter was taken up before the Conciliation Officer but there too the management took up a non-conciliatory attitude and on receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred under clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the disputes of all the above-named workmen for adjudication to this Tribunal which were registered as Reference Nos. 22 to 47 of 1971, the term of reference being common in all the references.

“Whether the retrenchment of the concerned workman was justified and in order? If not, to what relief is he entitled?”

On receipt of the order of reference, usual notices were given to the parties concerned in all the cases and they filed their respective written statements. The workmen reiterated their above claim for reinstatement and back wages. The management, on the other hand, contested their claim contending that the retrenchment had to be brought about as the company was in the process of winding up as a result of the nationalisation of the Road Transport by the State Government. The following preliminary issue was framed which was common in all the cases.

“Whether the services of the present workmen have been dispensed with as a result of bona fide closure of the business by the Company consequent upon the nationalisation of the Road Transport by the State? If so, with what effect?”

The management did not lead any evidence on the above issue and entered into negotiations for an amicable settlement with all the workmen. The settlement has been actually arrived at with 18 workmen who have been paid their dues in full and final satisfaction of their claim and references Nos. 22, 25, 26, 27, 28, 29, 31, 32, 33, 35, 37, 38, 39, 40, 41, 43, 45, 46, 47 of 1971 have accordingly been disposed of. In this and the other remaining seven references also the management had taken one or two adjournments to settle the dispute with the concerned workmen but nothing of the sort has been done. The authorised representative of the management Shri Chanchal Singh has expressed his inability to appear in the cases for want of instructions from the management and the officers of the management have also chosen not to appear and take part in the proceedings.

Statement of the concerned workman Shri Walaya Ram has been recorded. He has stated on oath that he has not been paid one month's notice wages for the retrenchment compensation as required under section 25(a)(b) of the Act. He has, however, admitted that formerly the company had four route permits with 5 buses, but at the time of retrenchment it had been left with only one route permit and one bus forming one trip daily from Gohana to Sonapat and back for which a skeleton staff of one driver, one conductor besides the Manager, Accountant and Chowkidar had been retained.

It would be clear from the facts stated above that as a result of nationalisation of the Road Transport by the State Government, the respondent transport company was actually in the process of closing up its business. Out of the four route permits three had been withdrawn by the State and it was left with only one route permit for the period ending March, 1972. The existing staff including one driver, one conductor besides the Manager, the Accountant and the Chowkidar was sufficient to run the business to be ultimately wound up.

So, taking into consideration all the facts and the circumstances of the case stated above, the claim of the workmen for reinstatement cannot be considered to be well founded. On account of the nationalisation of the Road Transport the business was in the process of closing up on account of unavoidable circumstances beyond the control of the management rendering the workmen to be surplus whose services had consequently to be brought

under retrenchment. Before retrenching its workmen the management has to comply with certain mandatory provisions of the law regarding the issuing of the retrenchment notices, payment of notice pay, retrenchment compensation etc. and the burden is on the management to establish conclusively that the said requirements of the law have been satisfied. But, as already observed, the management has elected not to appear and take part in the proceedings in the present case and in the absence of any satisfactory evidence the conclusion is irrebuttable that, as stated by the workman he has not been paid his dues.

In view of the above, it is held that although the workman has made out no good case for reinstatement he is entitled to full compensation, as provided under section 25FFF of the Industrial Disputes Act, 1947, with costs of the proceedings which are assessed at Rs 100.

Dated 19th April, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 472, dated 19th April, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 19th April, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 4551-Lab-72/17503.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Labour Law Adviser, Haryana, Chandigarh (Sole Arbitrator), in respect of the dispute between the workmen and the management of M/s Khaddi Ashram Panipat.

BEFORE SHRI R. L. GUPTA, LABOUR LAW ADVISER, CHANDIGARH (SOLE ARBITRATOR)
IN THE MATTER OF ARBITRATION BETWEEN SHRI MADAN LAL WORKMAN AND THE
MANAGEMENT OF M/S KHADDI ASHRAM, PANIPAT.

Present.—

Shri Madan Lal, in person.

Shri Hari Singh, for the management.

Vide Haryana Government notification No. 1D/ILC/12/8172, dated 19th February, 1971, an arbitration agreement between the above cited parties was published and I was appointed as Sole Arbitrator. The Arbitration proceedings could not be started earlier as the address of the workman concerned could not be located from the arbitration agreement or from the notification of the Government. M/s. Khaddi Ashram, Panipat and the Conciliation Officer, Panipat, who were personally contacted could also not give the address of the workman concerned to issue him a notice. It was only in the month of November, '71 that the arbitration proceedings could be started when Shri Madan Lal himself appeared and intimated his address. Usual notices were issued to the parties and they filed their statement of claims and written statement respectively. On the basis of the pleadings of the parties M/s. Khaddi Ashram was directed to produce all the relevant records for verification so as to scrutinise the same for the purpose of arriving at a conclusion as to what amount the applicant was entitled to.

The following points of disputes were referred for arbitration :—

- (1) Whether any money is due to Shri Madan Lal after adjusting his wages or any money due against the security deposit in Zamanat Karya Karta account and whether the amount debited by the Management against the above amount is justified.
- (2) Whether Shri Madan Lal be paid some compensation on account of his termination of his service and if so, what should be the exact amount.

With regard to the first claim, the Management pleaded that as per the audit reports of the centres where Shri Madan Lal was Incharge or was entrusted with the goods, a number of irregularities came to the notice which, were either in the nature of embezzlement i. e., not accounting for the money realized due to the sale of the goods

or on account of shortages of stores at the time of handing over the charge. Necessary audit reports were examined and Shri Madan Lal was confronted with the same. To some of the items he agreed and to some he objected and desired to be shown the exact vouchers in support of that. The Management further states that the old records prior to five years was not retained and destroyed but the audit reports are authentic and gives every detail of the shortages and the embezzlements. Therefore, the workman concerned was confronted with the records which were available and after going through the same he accepted the correctness of the amount pointed out by the auditors as recoverable from him.

In view of the above position, I fully believe the reports of the auditors and therefore the amount as debited by the Management against the security deposit in Zamanat Karya Karta account was fully justified. The worker stated that the Zamanat Karya Karta account was a provident fund account but I am sorry that I cannot go into that matter as it has already been admitted in the terms of reference that the said account was Zamanat Karya Karta account. After adjusting the said account against the shortages etc., there was still a sum of about Rs 700 recoverable from Shri Madan Lal. Therefore, no money was due to Shri Madan Lal after adjusting the shortages etc. against Zamanat Karya Karta account. Shri Madan Lal has tried to exaggerate his claim on various accounts such as gratuity, bonus and increments from August 1960 to October, 1967. He has failed to show me if there was any gratuity scheme applicable in the Ashram on the basis of which Ashram was liable to pay gratuity in all cases of termination of employment. Similarly, the Ashram had stopped his increments for the reasons of embezzlement and shortages pointed out from time to time and there is nothing on record to show that such stoppages were ever challenged by the workman concerned. I am afraid that I can go into the validity of the orders of the Management passed with regard to the stoppage of increments and I, therefore, cannot except this claim. The only claim that has to be considered is with regard to compensation in lieu of termination of service which is the matter of second term of reference. The Management pleaded that his services were terminated for his remaining absent from duty despite the letters addressed to him. The workman has pleaded that he was sick and has submitted a medical certificate in support of his sickness. I have found a certificate on the record of the Management on that account and I feel that the Management was not fully justified to terminate his services. However, as per the records that came to my notice with regard to the shortages and the embezzlement in which Shri Madan Lal involved, I find that he is not a desirable person and therefore could not be retained in employment.

Taking all the circumstances into consideration and the illegality committed by the Management as well, in terminating his service, I award compensation of Rs 1000 to Shri Madan Lal. This amount shall be besides the sum of Rs 702.82 due from Shri Madan Lal which shall also not be recoverable hereinafter. No other amount is due to the applicant as claimed by him. I give my award accordingly.

Dated 15th April, 1972.

R.L. GUPTA,
Labour Law Adviser, Chandigh.

Copy forwarded in triplicate to the Secretary to Government, Haryana, Labour Department, Chandigarh for favour of publication.

Dated the 15th April, 1972.

R. L. GUPTA,
Labour Law Adviser, Chandigarh.

No. 4495-4 Lab-72/17528.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Rohtak-Gohana Bus Service (P) Ltd., Rohtak.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 44 of 1971

Between

SHRI BUTA RAM WORKMAN AND THE MANAGEMENT OF M/S ROHTAKGOHANA
BUS SERVICE (P) LTD, ROHTAK.

Present.—

Shri S. N. Vats, for the workman.

Nemo, for the management.

AWARD

The management of M/s. Rohtak Gohana Bus Service (P) Ltd., Rohtak, retrenched from service 26 workmen, namely, Sarvshri Gopal, Dass, Roshan Lal, Sardar Singh, Ramji Das, Dharam Vir, Vishwa Nath, Sant Lal, Malik Chand Krishan Lal, Tara Chand, Lachman Das, Paras Nath, Ajaib Singh, Raghu Nath, Mulkh Raj, Chaman Lal, Jinda Ram, Nehal Chand, Harbhajan Singh, Tirath Ram, Buta Ram, Shiv Dutt, Amrik Singh, Lakhi Ram, Kishori Lal, and Walaya Ram, with effect from 31st October, 1970. Feeling aggrieved, they raised a demand for their reinstatement with full back wages contending that the retrenchment had been brought about without any justification and in contravention of the requirements of the law as laid down in clause (a) (b) of section 25-F of the Industrial Disputes Act. There being no satisfactory response from the management, the matter was taken up before the Conciliation Officer but there too the management took up a non-conciliatory attitude and on receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the disputes of all the above named workmen for adjudication to this Tribunal which were registered as Reference Nos. 22 to 47 of 1971, the term of reference being common in all the references.

"Whether the retrenchment of the concerned workman was justified and in order ? If not to what relief is he entitled ?"

On receipt of the order of reference usual notices were given to the parties concerned in all the cases and they filed their respective written statements. The workmen reiterated their above claim for reinstatement and back wages. The management, on the otherhand, contested their claim contending that the retrenchment had to be brought about as the company was in the process of winding up as a result of the nationalisation of the Road Transport by the State Government. The following preliminary issue was framed which was common in all the cases.

"Whether the services of the present workman have been dispensed with as a result of bonafide closure of the business by the Company consequent upon the nationalisation of the Road Transport by the State ? If so, with what effect ?"

The management did not lead any evidence on the above issue and entered into negotiations for an amicable settlement with all the workmen. The settlement has been actually arrived at with 18 workmen who have been paid their dues in full and final satisfaction of their claim and references Nos. 22, 25, 26, 27, 28, 29, 31, 32, 33, 35, 37, 38, 39, 40, 41, 43, 45, 46, 47 of 1971 have accordingly been disposed of. In this and the other remaining seven references also the management had taken one or two adjournments to settle the dispute with the concerned workmen but nothing of the sort has been done. The authorised representative of the management Shri Chanchal Singh has expressed his inability to appear in the cases for want of instructions from the management and the officers of the management have also chosen not to appear and take part in the proceedings.

Statement of the concerned workman Shri Buta Ram has been recorded. He has stated on oath that he has not been paid one month's notice wages nor the retrenchment compensation as required under section 25 (a) (b) of the Act. He has, however, admitted that formerly the company had four route permits with 5 buses but at the time of retrenchment it had been left with only one route permit and one bus for making one trip daily from Gohana to Sonapat and back for which a skeleton staff of one driver, one conductor, besides the Manager, Accountant and a Chowkidar had been retained.

It would be clear from the facts stated above that as a result of nationalisation of the Road Transport by the State Government, the respondent transport company was actually in the process of closing up its business. Out of the four route permits three had been withdrawn by the State and it was left with only one route permit for the period ending March, 1972. The existing staff including one driver, one conductor besides the Manager the Accountant and the Chowkidar was sufficient to run the business to be ultimately wound up.

So taking into consideration all the facts and the circumstances of the case stated above, the claim of the workmen for reinstatement can not be considered to be well-founded. On account of the nationalisation of the Road Transport the business was in the process of closing up on account of unavoidable circumstances beyond the control of the management rendering the workmen to be surplus whose services had consequently to be brought under retrenchment. Before retrenching its workmen the management has to comply with certain mandatory provisions of the law regarding the retrenchment notices, payment of notice pay, retrenchment compensation etc., and the burden is on the management to establish conclusively that the said requirements of the law have been satisfied. But, as already observed the management has elected not to appear and take part in the proceedings in the present case and in the absence of any satisfactory evidence the conclusion is irrebuttable that, as stated by the workmen he has not been paid his dues.

In view of the above, it is held that although the workman has made out no good case for reinstatement, he is entitled to full compensation, as provided under section 25 FFF of the Industrial Disputes Act, 1947 with costs of the proceedings which are assessed at Rs. 100/-.

Dated the 19th April, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 469, dated the 19th April, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 19th April, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 4500-4Lab-72/17530.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s National Mineral Development Corporation Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD
Reference No. 97 of 1971

between

THE WORKMEN AND THE MANAGEMENT OF M/S NATIONAL MINERAL DEVELOPMENT CORPORATION LTD., N.I.T., FARIDABAD

Present.—

Shri J. S. Dalal, for the Workmen.

Shri P. N. Counsel, for the Management.

AWARD

The material facts leading to the present reference may briefly be stated as under :—

The concerned workmen are employees of the National Mineral Development Corporation Ltd., Faridabad (a Government of India undertaking). Ever since the establishment of the office of the company at Faridabad in 1962-63, the company has been paying to the workmen the City Compensatory Allowance at 8 per cent as it pays to the workmen at Delhi. The House Rent Allowance which was previously paid at 15 per cent of the basic pay was increased to 25 per cent of the basic pay as in the case of the workmen at Delhi. By means of notice dated 18th May, 1971, however, the payment of the City Compensatory Allowance has been stopped with effect from 8th June, 1971 and the rate of House Rent Allowance has also been reduced to 15 per cent. Feeling aggrieved, the workmen raised a demand on the management for the restoration of the City Compensatory Allowance at 8 per cent and also for payment of the House Rent Allowance at the enhanced rate of 25 per cent and there being no satisfactory response, the matter was taken up before the Conciliation Officer, through the demand notice, dated 7th June, 1971. The management was since not prepared to accede to the above demand of the workmen, no amicable settlement could be brought about between the parties in the conciliation proceedings initiated by the Labour-cum-Conciliation Officer, Faridabad, on the aforesaid demand notice of the workmen.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section 1 of Section 10 of the Industrial Disputes Act, 1947 has referred the dispute for adjudication to this Tribunal,—*vide* order No. ID/FD/60-A-71/32455-58, dated 5th November, 1971 the term of reference being as given under :—

“Whether the management is justified in discontinuing the Compensatory (City) allowance and reducing the rate of house rent allowance from 25 per cent to 15 per cent? If not, to what relief the workmen are entitled to?”

Usual notices were given to the parties and they have put in their respective written statements. In the statement of claim filed on behalf of the workmen, it has been alleged that the City Compensatory Allowance at 8 per cent which the workmen at Delhi were still getting had become a part of their wages and the management had no justification whatever for withholding this payment to them nor had proper notice, as contemplated under section 9-A of the Industrial Disputes Act been given to them before effecting this change in their conditions of service. With regard to the House Rent Allowance also it has been contended that taking into consideration the ever increasing cost of living the management was not justified in discriminating between the workmen a

Faridabad and Delhi and the reduction of House rent Allowance from 25 per cent to 15 per cent has been effected arbitrarily without any just and reasonable ground.

The management has contested the above claim of the workmen on merits besides raising a preliminary objection that the appropriate Government being the Central Government and not the Haryana State Government, the present reference is bad in law and as such this Tribunal has no jurisdiction to adjudicate upon the same. The following two issues arose for determination in the case.

- (1) Whether the appropriate Government is the Central Government and not the Haryana State Government and, therefore, the present reference is bad in law ?
- (2) Whether the management is justified in discontinuing the compensatory (city) allowance and reducing the rate of house-rent allowance from 25 per cent to 15 per cent ? If not, to what relief the workmen are entitled to ?

The management has examined two of its employees including Shri H. N. Upadhey, Officer on Special Duty, M.W. 1, Shri J.R.K. Soti, Assistant Secretary, M.W. 2, besides bringing on record some documentary evidence consisting of —

- | | |
|--|------------------------------|
| (1) Office Memorandum, dated 3rd August, 1964 | Ex. M.W. 1/1 |
| (2) Original letter, dated 21st May, 1968, regarding recognition of the signatures of Shri R. K. Aggarwal | Ex. M.W. 1/2 |
| (3) True copy of letter, dated 5th November, 1969, signed by Shri K. Kishore, Under-Secretary to Government of India | Ex. M.W. 1/3 |
| (4) Printed copy of the Memorandum and Articles of Association | Ex. M.W. 2/1 |
| (5) Extracts from the minutes of the meeting of the Board of Directors | Ex. M.W. 2/2 to Ex. M.W. 2/5 |
| (6) Cyclostyle copy of the Service Regulation | Ex. M.W. 2/6 |

On behalf of the workmen their authorised representatives Shri Narain Bhatia and Shri J.S. Dalal have made their own statements, without leading any other evidence.

Arguments have been addressed on both sides and I have given a very considered thought to the contentions of the parties and the facts on record.

Issue No. 1 has not been pressed on behalf of the management and is accordingly decided in favour of the workmen holding that the appropriate Government in the matter is the Haryana State Government and as such the reference is perfectly valid.

Issue No. 2.—There is no denying the fact that the concerned workmen had been getting the City Compensatory Allowance at 8 per cent of their basic wages ever since the office of the company was established at Faridabad in 1962-63. It is also a common ground between the parties that these workmen had been getting House-rent Allowance at the enhanced rate of 25 per cent of their basic wages since 1st April, 1969, as against the earlier rate of 15 per cent. The benefit of City Compensatory Allowance and House-rent Allowance at higher rate was manifestly given to the workmen posted at Faridabad to bring them at par with the workmen at Delhi so far as these two particular allowances were concerned, keeping in view the fact that the living conditions were as expensive at Faridabad as at Delhi. This is clear from the perusal of the documents produced by the management, Ex. M.W. 1/1, Ex. M.W. 1/2, Ex. M.W. 1/3, Ex. M.W. 2/2, Ex. M.W. 2/3.

As already observed, the management has all of a sudden decided to withhold the payment of the City Compensatory Allowance to the present workmen and the House-rent Allowance has also been reduced from 25 per cent to 15 per cent of their basic wages. The law is very clear on the point before effecting a change of this nature in the conditions of service of any workman, a notice as contemplated under section 9-A has to be given and no change can be effected within 21 days of the said notice. The provision of the law in this behalf are of a mandatory nature and have got to be strictly complied with. In the instant case the aforesaid change has been made with effect from 8th June, 1971 for which a clear notice of 21 days to the workmen was essential. The management did give the notice which purports to be of 18th May, 1971, but according to the workmen this was received by them only on 20th May, 1971. The management has made no attempt to show that service of this notice upon the workmen was effected within 21 days of the date from which the City Compensatory Allowance was proposed to be withdrawn and the House-rent Allowance to be reduced. By simple calculation the disputed notice alleged to have been issued by the management to the workmen under section 9-A of the Industrial Disputes Act falls short of the prescribed period of 21 days and as such it can not be held to be a valid notice. In other words, the management has sought to effect the impugned change in the condition of service of the concerned workmen with regard to the payment of City Compensatory Allowance and House-rent Allowance at enhanced rate already paid to them, in contravention of the requirements of the law as laid down under section 9-A of the Industrial Disputes Act.

Otherwise also no just and reasonable ground has been shown for stopping the payment of the City Compensatory Allowance and for reducing the House-rent Allowance from 25 per cent to 15 per cent particularly when these concessions are still available to the workmen of the Corporation posted at Delhi, the conditions of living at Faridabad being still as expensive as at Delhi. There is apparently no justification for meeting out differential and discriminatory treatment to the workmen at Faridabad.

So, taking into consideration the facts of the case as discussed above, I find that the claim of the workmen is very well founded and the learned representative of the management has not been able to satisfy me to the contrary. Issue No. 2 is accordingly decided in favour of the workmen and it is held that the management had no justification in discontinuing the City Compensatory Allowance and reducing the House-rent Allowance from 25 per cent to 15 per cent. The workmen, in the result, are entitled to get the City Compensatory Allowance at 8 per cent

and House-rent Allowance at 25 per cent as they were getting before 8th June, 1971. The award is made accordingly, but there shall be no order as to costs.

Dated 20th April, 1972

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 484, dated 20th April, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 20th April, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 4501-4Lab-72/17534.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s National Mineral Development Corporation Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Application No. 2 of 1972 under section 33-A of the Industrial Disputes Act, 1947
between

THE WORKMEN AND THE MANAGEMENT OF M/S NATIONAL MINERAL DEVELOPMENT
CORPORATION LTD., FARIDABAD

Present—

Shri J. S. Dalal, for the workmen.
Shri P.N. Counsel, for the management.

AWARD

This is a complaint under section 33-A of the Industrial Disputes Act, 1947. The facts material for the disposal of the case may briefly be stated as under :—

The management of M/s National Mineral Development Corporation Ltd., Faridabad, has decided to shift the Headquarters of the Corporation from New Delhi/Faridabad to Hyderabad,—*vide* decision, dated 22nd October, 1971, of the Board of Directors. Feeling aggrieved, the workmen have brought this complaint with the allegations that the above action is being taken by the management in contravention of rule 8 of the National Mineral Development Corporation Service Regulations (Governing the Recruitment Conditions of Service, Pay and Allowances, Discipline, Conduct and Retiring Benefits of the Employees of the Corporation) and in violation of the provisions of section 33 of the Industrial Disputes Act, 1947. It has further been alleged that the management has also decided to reduce the House-rent and City Compensatory Allowance at Hyderabad.

With the above averments in brief, the workmen have requested for proper orders to redress their above grievances.

Notice of the complaint was given to the management. While not denying the fact that the Board of Directors has taken decision to shift the Headquarters from New Delhi/Faridabad to Hyderabad, it has been contended that this action does not involve any change in service condition of the workmen so as to attract the provisions of section 33-A of the Industrial Disputes Act, 1947, and there being no contravention of the provisions of law, the present complaint is not maintainable. The following three issues arose for determination in the case :—

- (1) Whether the present application is not maintainable under section 33-A of the Industrial Disputes Act, 1947 ?
- (2) Whether there has been a contravention of the provisions of section 33 of the Industrial Disputes Act, 1947 ? If so, with what effect ?
- (3) Relief.

Shri J. S. Dalal, President of M/s National Mineral Development Corporation Employees' Union, has made his own statement besides placing on record a copy of the office order dated 7th January, 1972, Ex. W.W. 1/1. No evidence has been led on behalf of the management.

I have heard the learned representatives of the parties and considered the facts on record.

The only industrial dispute pending adjudication between the management and the workmen of M/s National Mineral Development Corporation is as per reference No. 97 of 1971 wherein the workmen have challenged the stoppage of the 8 per cent City Compensatory Allowance at Faridabad and reduction of House-rent Allowance from 25th per cent to 15 per cent with effect from 8th June, 1971. A perusal of the record pertaining to this dispute would show that the reference order was made by the Government on 5th November, 1971 and the same was received by this Tribunal on 8th November, 1971, whereupon usual notices were given to the parties for 29th November, 1971. The decision to shift the Headquarters of the Corporation from New Delhi/Faridabad to Hyderabad had been taken by the Board of Directors on 22nd October, 1971, obviously before the order of reference, dated 5th November, 1971. But the office order to implement the above decision with the necessary implications affecting the workmen was passed on 7th January, 1972, copy of which is Ex. W.W. 1/1 on record. In view of these facts which are admitted on both sides, the management cannot be heard to say that there was no pendency when the impugned action to shift the headquarters was actually taken. However, the mere transfer of the employees with the change of the headquarters of the Corporation from New Delhi/Faridabad to Hyderabad, which may be necessary in the interest of the business, cannot by itself be held to involve a change in their service conditions so as to attract the provisions of section 33-A of the Industrial Disputes Act, 1947. The contention raised by the management in this behalf has force and should, therefore, prevail. The learned representative of the workmen has not been able to satisfy me to the contrary.

In view of the above, the action taken by the management to shift the Headquarters of the Corporation from New Delhi/Faridabad to Hyderabad does not call for any interference as contemplated under section 33-A of the Industrial Disputes Act, 1947. The complaint, in the result, fails and is dismissed. There shall, however, be no order as to costs.

Dated 20th April, 1972

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 485, dated 20th April, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 20th April, 1972

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 4502-4 Lab-72/17535.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Dalima Dadri Cement Limited, Charkhi Dadri.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Application No. 8 of 1972 under section 33-A of the Industrial Disputes Act, 1947

between

SHRI DAYA NAND WORKMAN AND THE MANAGEMENT OF M/S DALMIA DADRI
CEMENT LTD., CHARKHI DADRI

Present—

Nemo, for the workman.

Shri V. Kaushik, for the management.

AWARD

This is a complaint under section 33-A of the Industrial Disputes Act, 1947. The concerned workman Shri Daya Nand was working as a Gunny Bags Checker with M/s Dalmia Dadri Cement Ltd., Charkhi Dadri. His grievance is that during the pendency of an industrial dispute to which he is a party, the management has, in contravention of the provisions of section 33 of the Act transferred him to the post of an Attendant in Silos Section, a job of lower grade. It has further been alleged that the impugned action has been taken by the management simply to harass him and hence this complaint with the request that the management should be directed to transfer him back to his original post.

Notice of the complaint was given to the management. While not denying the fact that an industrial dispute between the parties is pending adjudication before this Tribunal, the request of the workman has been opposed on the ground that *vide* order dated 15th February, 1972, he has been appointed Yard Checker in the interest of work, the nature of his present duties and service

conditions being the same as before without any reduction in his emoluments. It has further been contended that the management has the right to transfer him from one department to another in the same establishment without altering his conditions of service etc.

Shri Daya Nand was called upon to file his rejoinder to the above written statement of the management. No rejoinder has been filed and he has not even appeared in person or through his representative to take part in the proceedings.

I have heard the learned representative of the management. He has vehemently argued that by transferring Shri Daya Nand from the post of a Gunny Bags Checker to that of Yard Checker, no charge has been effected in his service conditions, the nature of his duties, wages etc. having remained the same, and as such the provisions of section 33-A of the Industrial Disputes Act are not attracted to question the order of his transfer which was within the competence of the management to pass in the interest of the work in the factory. The contention does not appear to be without force and since the workman has himself elected not to pursue the complaint, the same shall stand dismissed. There shall be no order as to costs.

Dated 20th April 1972

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 483 dated, 20th April, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 20th April, 1972

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 4503-4Lab-72/1537.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Universal Cable Manufacturing Co., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD

Reference No. 17 of 1972.

between

The Workmen and the Management of M/s Universal Cable Manufacturing Company, Faridabad.

Present.—

Shri Amar Singh for the workmen.

Shri Bharat Bhushan, Partner, for the management.

AWARD

The following dispute existing between the management of M/s Universal Cable Manufacturing Company, Faridabad, and its workmen were referred for adjudication to this Tribunal by the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947,—vide order No. ID/FD/58-A/71/4243, dated the 7th February, 1972.

1. Whether the management should pay dearness allowance to their workmen ? If so, with what details ?
2. Whether the management is required to supply the uniforms to their workers ? If so, with what details ?

On receipt of the reference from the Government notices were given to the parties to put in their respective written statements. They have appeared and filed a memorandum of settlement dated 29th March, 1972. Exhibit M.1.

Statements of the authorised representatives of the parties have been recorded. The management has agreed to give 15 per cent increase in wages to all the workmen with effect from 1st of March, 1972. The workmen have given up their demand for uniforms.

In view of the above, no further proceedings are called for in the case and the award is made in terms of the settlement dated 29th March, 1972 Exhibit M-1 (Annexure 'A') which shall form part of the award. There shall be no order as to costs.

Dated : 13th April, 1972

O.P. SHARMA,
Presiding Officer, Industrial Tribunal,
Haryana, Faridabad.

No. 453, dated 14th April, 1972.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated : 13th April, 1972

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

FORM 'H'

(See RULE 58 OF THE INDUSTRIAL DISPUTES RULES)

Memorandum of Settlement under Section 18(1) of the I.D. Act, 1947.

Name of the Parties	.. 1. Management of M/S Universal Cable Manufacturing Company, Faridabad. 2. Their workmen through General Engineering Mazdoor Union Regd. (I.N.T.U.C.) Faridabad.
Representing Employer	.. 1. Shri Madan Lal Partner.
Representing Workmen	.. 1. Shri Amar Singh Sharma—President.

Short Recital

The Governor of Haryana, *vide* order No. ID/FD/58-A-71, dated 7th, February, 1972 referred for adjudication to the Industrial Tribunal, Faridabad the following matter :—

- (a) Whether the management should pay dearness allowance to their workmen ? If so with what details
- (b) Whether the management is required to supply the Uniforms to their workmen ? If so, with what details ?

After the above order of reference was passed by the Haryana Government, the workmen of the factory, along with Shri Amar Singh Sharma, President, General Engineering Mazdoor Union Regd. (INTUC) Faridabad, approached the Management to settle the matter amicably. Negotiations were held from time to time to finalise the dispute. According to the negotiations finalised between the parties, the following terms of settlement were reached :—

Terms of Settlement

1. The workmen accepted the contention of the Management that there is no process used in this factory which warrants the issuance of Uniforms to the workmen and the same is not provided in the Factories Act either, hence the demand for Uniforms is unjustified. Resultantly it stands withdrawn.

2. In consideration to the demand for Dearness Allowance, the Management agrees to give to each of its workmen an increase in the wages by 15 per cent (Fifteen per cent) with effect from 1st March, 1972.

3. In view of above settlement the workmen agree and assure the Management that they would not raise any demand involving financial repercussions during the currency of this settlement which is effective from the date of its signing and will last for a period of Three years. The workmen also assured the Management that during the period of settlement, they will give full production and not resort to go slow, strikes or any other direct action as may jeopardise the production of the factory.

4. The Honourable Tribunal is requested to give award in light of this settlement.

This settlement is signed by the parties on this the 29th day of March, 1972 at Faridabad.

For Management !

For Workmen :

(Sd). M dan Lal,

Amar Singh Sharma

Witnesses:..

1. Davi Charan.

4. Sham Lal.

2. Subran.

5. Des Raj

3. Seva Ram.

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal Haryana,
Faridabad.

No. 4498-4Lab-72/17540.—In pursuance of the provisions of section. 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is published to publish the following award of the Presiding Officer, Industrial Tribunal Haryana Faridabad in respect of the dispute between the workmen and the management of M/s Rohtak-Gohana Bus Service (P) Ltd. Rohtak.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 42 of 1971.

Between

SHRI TIRATH, RAM, WORKMAN AND THE MANAGEMENT OF M/S ROHTAK GOHANA BUS SERVICE (P) LTD., ROHTAK.

Present :—

Shri S.N. Vats, for the workmen.

Nemo for the management.

AWARD

The management of M/s Rohtak Gohana Bus Service (P) Ltd., Rohtak, retrenched from service 26 workmen, namely, Sarvshri Gopal Dass, Roshan Lal, Sardar Singh, Ramji Das, Dharam Vir, Vishwa Nath, Sant Lal, Malik Chand, Krishan Lal, Tara Chand, Lachhman Das, Paras Nath, Ajaib Singh, Raghu Nath, Mulkh Raj, Chaman Lal, Jinda Ram, Nehal Chand, Harbhajan Singh, Tirath Ram, Buta Ram, Shiv Dutt, Amrik Singh, Lakhi Ram, Kishori Lal and Walaya Ram, with effect from 31st October, 1970. Feeling aggrieved they raised a demand for their reinstatement with full back wages contending that the retrenchment had been brought about without any justification and in contravention of the requirements of the law as laid down in clause (a) (b) of section 25-F of the Industrial Disputes Act. There being no satisfactory response from the management, the matter was taken up before the Conciliation Officer but there too the management took up a non-conciliatory attitude and on receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred under clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred to the disputes of all the above named workmen for adjudication to this Tribunal which were registered as Reference Nos. 22 to 47 of 1971, the term of reference being common in all the references.

“Whether the retrenchment of the concerned workman was justified and in order ? If not to what relief is he entitled ?”

On receipt of the order of reference usual notices were given to the parties concerned in all the cases and they filed their respective written statements. The workmen reiterated their above claim for reinstatement and back wages. The management, on the other hand, contested their claim contending that the retrenchment had to be brought about as the company was in the process of winding up as a result of the nationalisation of the Road Transport by the State Government. The following preliminary issue was framed which was common in all the cases.

“Whether the services of the present workman have been dispensed with as a result of bona fide closure of the business by the Company consequent upon the nationalisation of the Road Transport by the State ? If so, with what effect ?”

The management did not lead any evidence on the above issue and entered into negotiations for an amicable settlement with all the workmen. The settlement has been actually arrived at with 18 workmen who have been paid their dues in full and final satisfaction of their claim and references Nos. 22, 25, 26, 27, 28, 29, 31, 32, 33, 35, 37, 38, 39, 40, 41, 43, 45, 46, 47, of 1971 have accordingly been disposed of. In this and the other remaining seven references also the management had taken one or two adjournments to settle the dispute with the concerned workmen but nothing of the sort has been done. The authorised representative of the management Shri Chanchal Singh has expressed his inability to appear in the cases for want of instructions from the management and the officers of the management have also chosen not to appear and take part in the proceedings.

Statement of the concerned workman Shri Tirath Ram has been recorded. He has stated on oath that he has not been paid one month's notice wages nor the retrenchment compensation as required under section 25(a)(b) of the Act. He has, however, admitted that formerly the company had four route permits with 5 buses but at the time of retrenchment it had been left with only one route permit and one bus for making one trip daily from Gohana to Sonapat and back for which a skeleton staff of one driver, one conductor, besides the Manager, Accountant and Chowkidar had been retained.

It would be clear from the facts stated above that as a result of nationalisation of the Road Transport by the State Government, the respondent transport company was actually in the process of closing up its business. Out of the four route permits three had been withdrawn by the State and it was left with only one route permit for the period ending March, 1972. The existing staff including one driver, one conductor besides the Manager, the Accountant and the Chowkidar was sufficient to run the business to be ultimately wound up.

So, taking into consideration all the facts and the circumstances of the case stated above, the claim of the workmen for reinstatement cannot be considered to be well-founded. On account of the nationalisation of the Road Transport the business was in the process of closing up on account of unavoidable circumstances beyond the control of the management rendering the workmen to be surplus whose services had consequently to be brought under retrenchment. Before retrenching its workmen the management has to comply with certain mandatory provisions of the law regarding the issuing of the retrenchment notices, payment of notice pay, retrenchment compensation etc. and the burden is on the management to establish conclusively that the said requirements of the law have been satisfied. But, as already observed, the management has elected not to appear and take part in the proceedings in the present case and in the absence of any satisfactory evidence the conclusion is irrebuttable that, as stated by the workman, he has not been paid his dues.

In view of the above, it is held that although the workman has made out no good case for reinstatement, he is entitled to full compensation, as provided under section 25 FFF of the Industrial Disputes Act, 1947, with costs of the proceedings which are assessed at Rs 100.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana.
Faridabad.

No. 466 dated the 19th April, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated, 19th April, 1972

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal Haryana.
Faridabad.

The 1st May, 1972

No 4497-4Lab-72/17604.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947, the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Rohtak, Gohana Bas Service into (P) Ltd., Rohtak.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD.

Reference No. 30 of 1971.
between

SHRI SHIV DUTT WORKMAN AND THE MANAGEMENT OF M/S. ROHTAK GOHANA
BUS SERVICE (P) LTD., ROHTAK.

Present—

Shri S. N. Vats for the workman.

Nemo for the management.

AWARD

The management of M/s. Rohtak-Gohana Bus Service (P) Ltd, Rohtak, retrenched from service 26 workmen, namely, Sarvshri Gopal Dass, Roshan Lal, Sardar Singh, Ramji Dass, Dharam Vir, Vishwa Nath, Sant Lal, Malik Chand, Krishan Lal, Tara Chand, Lachman Das, Paras Nath, Ajaib Singh, Raghu Nath, Mulkh Raj, Chaman Lal, Jinda Ram, Nehal Chand, Harbhajan Singh, Tirath Ram, Buta Ram, Shiv Dutt, Amrik Singh, Lakhi Ram, Kishori Lal and Walaya Ram, with effect from 31st October, 1970. Feeling aggrieved, they raised demand for their reinstatement with full back wages contending that the retrenchment had been brought about without any justification and in contravention of the requirements of the law as laid down in clause (a) (b) of section 25-F of the Industrial Disputes Act. There being no satisfactory response from the management, the matter was taken up before the Conciliation Officer but there too the management took up a non-conciliatory attitude and on receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred under clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the disputes of all the abovenamed workmen for adjudication to this Tribunal which were registered as Reference Nos. 22 to 47 of 1971, the term of reference being common in all the references:—

“Whether the retrenchment of the concerned workmen was justified and in order? If not, to what relief are they entitled?”

On receipt of the order of reference usual notices were given to the parties concerned in all the cases and they filed their respective written statements. The workmen reiterated their above claim for reinstatement and back wages. The management, on the other hand, contested their claim contending that the retrenchment had to be brought about as the company was in the process of winding up as a result of the nationalisation of the Road Transport by the State Government. The following preliminary issue was framed which was common in all the cases:—

“Whether the services of the present workmen have been dispensed with as a result of bonafide closure of the business by the Company consequent upon the nationalisation of the Road Transport by the State? If so, with what effect?”

The management did not lead any evidence on the above issue and entered into negotiations for an amicable settlement with all the workmen. The settlement has been actually arrived at with 18 workmen who have been paid their dues in full and final satisfaction of their claim and references Nos. 22, 25, 26, 27, 28, 29, 31, 32, 33, 35, 37, 38, 39, 40, 41, 43, 45, 46, 47 of 1971 have accordingly been disposed of. In this and the other remaining seven references also the management had taken one or two adjournments to settle the dispute with the concerned workmen but nothing of the sort has been done. The authorised representative of the management Shri Chanchal Singh has expressed his inability to appear in the cases for want of instructions from the management and the officers of the management have also chosen not to appear and take part in the proceedings.

Statement of the concerned workman Shri Shiv Dutt has been recorded. He has stated on oath that he has not been paid one month's notice wages not the retrenchment compensation as required under section 25(a) (b) of the Act. He has, however, admitted that formerly the company had four route permits with 5 buses but at the time of retrenchment it had been left with only one route permit and one bus for making one trip daily from Gohana to Sonapat and back for which a skeleton staff of one driver, one conductor, besides the Manager, Accountant and Chowkidar had been retained.

It would be clear from the facts stated above that as a result of nationalisation of the Road Transport by the State Government, the respondent transport company was actually in the process of closing up its business. Out of the four route permits three had been withdrawn by the State and it was left with only one route permit for the period ending March, 1972. The existing staff including one driver, one conductor besides the Manager, the Accountant and the Chowkidar was sufficient to run the business to be ultimately wound up.

So taking into consideration all the facts and the circumstances of the case stated above, the claim of the workmen for reinstatement cannot be considered to be well founded. On account of the nationalisation of the Road Transport the business was in the process of closing up on account of unaboidable circumstances beyond the control of the management rendering the workmen to be surplus whose services had consequently to be brought under retrenchment. Before retrenching its workmen the management has to comply with certain mandatory provisions of the law regarding the issuing of the retrenchment notices, payment of notice pay, retrenchment compensation etc., and the burden is on the management to establish conclusively that the said requirements of the law have been satisfied. But, as already observed, the management has elected not to appear and take part in the proceedings in the present case and in the absence of any satisfactory evidence the conclusion is irrebuttable that, as stated by the workmen, he has not been paid his dues.

In view of the above, it is held that although the workman has made out no good case for reinstatement he is entitled to full compensation, as provided under section 25 FFF of the Industrial Disputes Act, 1947, with costs of the proceedings which are assessed at Rs. 100.

Dated the 19th April, 1972.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 467, dated the 19th April, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 19th April, 1972.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

B. L. AHUJA,

Commissioner for Labour and Employment and Secy.

LABOUR AND EMPLOYMENT DEPARTMENTS

The 28th April, 1972

No. 4385-ILab-72/16970.—The Governor of Haryana is pleased to make the following appointment and posting on a purely temporary basis.

Serial No.	Name of officer	Appointed and posted to	With effect from	REMARKS
1	Miss Nirmal Sharma	Assistant Employment Officer (Vocational Guidance), District Employment Exchange, Hissar	11th January, 1972 (forenoon)	Against an existing vacancy

No. 440-ILab-72/16975.—The Governor of Haryana is pleased to make the following appointment and posting on a purely temporary basis:—

Serial No.	Name of officer	Appointed and posted to	With effect from	Remarks
1.	Miss Monica Chaudhry	Assistant Employment Officer (Vocational Guidance) District Employment Exchange, Karnal	22nd December, 1971 (forenoon)	Against an existing vacancy

B. L. AHUJA,

Commissioner for Labour and Employment, and Secy.

PUBLIC WORKS DEPARTMENT
BUILDINGS AND ROADS BRANCH

The 31st March, 1972

No. SE/Ambala/PWD/B&R/17/R.—Whereas it appears to the Governor of Haryana that land is required to be taken by the Government, on the public expense, for a public purpose, namely, for constructing a link road from Ambala Jagadhri road to Chhota Khuda to Salarheri in Ambala District and it is hereby declared that the land described in the specification below is required for the aforesaid purpose.

This declaration is made under the provision of section 6 of the Land Acquisition Act, 1894 to all whom it may be concern and under the provision of section 7 of the said Act and the Land Acquisition Collector, Haryana P. W. D., B. & R. Branch, Ambala Cantt. or any other special Collector authorised by the Colonization Officer-cum-Special Land Acquisition Officer, Haryana is hereby directed to take order for the acquisition of the said land.

Plans of the land may be inspected in the offices of the Land Acquisition Collector, Haryana P. W. D., B. & R. Branch, Ambala Cantt. and the Executive Engineer, Ambala Provincial Division No. II, Ambala Cantt.

SPECIFICATIONS

Serial No.	District	Tehsil	Locality	Area	Number of Khasras	
1	Ambala	Ambala	Salarheri	0.695	10	12
					24, 25	11, 20, 21, 26
					25	13
						5, 6, 15, 16
						22
					5, 6/1, 7/2, 7/1, 14/1, 14/2	
						23
					1, 10/1, 10/2	
					183, 182, 181, 180, 179, 178,	
					176, 175, 174, 110, 162, 163,	
					164, 165, 63, 177.	
2	Ambala	Ambala	Chhota Khuda	0.404	17	
					17/2, 18, 23/1, 232/1, 24	
						22
					3/1, 3/2, 8/1, 8/2, 9, 13,	
					4, 7, 43, 32, 49, 50, 48,	
					51, 52	
						25
					16, 17, 26, 27	
Total				1.099		

No. SE/Ambala/PWD/B&R/18/R.—Whereas it appears to the Governor of Haryana that land is required to be taken by the Government, on the public expense, for a public purpose, namely, for constructing a link road from Mohri Kesri Bihta road to Village Haldri in Ambala, District and it is hereby declared that the land described in the specification below is required for the aforesaid purpose.

This declaration is made under the provision of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provision of section 7 of the said Act, and the Land Acquisition Collector, Haryana P.W.D., B&R, Branch, Ambala Cantt or any other Special Collector authorised by the Colonization Officer-cum-Special Land Acquisition Officer, Haryana is hereby directed to take order for the acquisition of the said land.

Plans of the land may be inspected in the office of the Land Acquisition Collector, Haryana, P.W.D., B&R, Branch, Ambala Cantt. and the Executive Engineer, Ambala. Provincial Division No. II, Ambala Cantt.

SPECIFICATION

District	Tehsil	Locality	Area	Number of khasra	
Ambala	Ambala	Haldri	04.81	9	
				17, 25, 17	
				16, 24, 25/2, 1	
				2	
				25	
				3	

District	Tehsil	Locality	Area	Number of Khasra
Ambala	Amtala	Haldii—concl'd		19
				1 1, —, 2, 8, 9, 10, 13, 14, 16, 17 2
				20
				5/1, 5/2
				83, 84
				154, 155, 156, 158, 164, 161, 162, 165, 168, 170, 173, 244, 245, 246.

No. SE/Ambala/P.W.D./B. & R./19.—Whereas it appears to the Governor of Haryana that land is required to be taken by the Government, on the public expense, for a public purpose, namely, for constructing an approach road from Shahbad Ladwa road to village Chapra Chapri, district Karnal and it is hereby declared that the land described in the specification below is required for the aforesaid purpose.

This declaration is made under the provision of section 6 of the Land Acquisition Act, 1894, to all whom it may concern, and under the provision of section 7 of the said Act, and the Land Acquisition Collector, Haryana P.W. D., B & R Branch, Ambala Cantt. or any other Special Collector authorised by the Colonisation Officer-cum-Special Land Acquisition Officer, Haryana, is hereby directed to take order for the acquisition of the said land.

Plans of the land may be inspected in the offices of the Land Acquisition Collector, Haryana P.W.D., B. & R. Branch, Ambala Cantt. and the Executive Engineer, Ambala Provincial Division No. II, Ambala Cantt.

SPECIFICATIONS

District	Tehsil	Locality	Area	Number of Khasras
Karnal	Thanesar	Chapra	2.310	50—61—62—78—80—85—86—87—149—150—151—152— 153—154—155—156—177—178—179—180—188—189— 190—192—193—194—195—198—199—204—203—448— 399—550—389—310—400—551—552—553—556—365— 388—390—391—400—364—550—561—362—562—563— 334—560—569—331—571—329—572—593—594—602— 603—617—613—614—615—616—616—604—605—606— 611—612—605—606—600—596—549—607—610—604— 609—608—598
Do	Do	Chapri	0.492	4 13 23 18—21—22 — 1— — — — — 9—10 1 1 2 1 2 2 2 13 11—12—13—14—17—18—19—20—21—22—23—16 — 1 — — — — — 2
Total			2.802 Hectares	